

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. CLAIM STATUS AND AMENDMENTS

Claims 1-19 were pending in this application when last examined.

Claims 4-5, 8-12 and 15-19 were withdrawn from consideration. The Examiner is respectfully suggested to clarify the status of these claims in the next Office Action. Applicants further reserve the right to file a Continuation or Divisional Application on any withdrawn subject matter.

Claims 1-3, 6, 7, 13 and 14 were examined on the merits and stand rejected. The Examiner is also respectfully requested to clarify the status of these claims.

Claim 2 is cancelled without prejudice or disclaimer thereto.

Claim 1 is amended to include the limitations of claim 2 and to clarify the claimed invention. Further, support for the SEQ ID NOs in claim 1 can be found on page 8, line 30 to page 9, line 1 of the specification as filed.

Claims 4, 6 and 8-10 are amended in light of the cancellation of claim 2.

No new matter has been added.

II. § 112 REJECTIONS

In item 3 on pages 2-3 of the Office Action, claims 1, 3, 6 and 7 were rejected under 35 U.S.C. § 112, first paragraph, on the basis that the specification is only enabling for EGFR800-809, 124-132, 54-62, 479-488 and 1138-1147, and not for any other EGFR-derived peptide capable of inducing CTL and a specific antibody response or for any derivatives or mutants thereof.

In item 4 on pages 3-4, claims 1, 3, 6 and 7 were rejected under 35 U.S.C. § 112, first paragraph, on the basis that the specification lacks written description support for the genus claims of EGFR derivatives, mutants, or EGFR other than those comprising the residues of claim 2.

Finally, in item 5 on page 4, claims 2, 13 and 14 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite because, according to the Examiner, it is not clear as to what SEQ ID NO: the recited residues correspond.

Applicants respectfully traverse these rejections as applied to the amended claims.

In particular, it is noted that without acquiescence to the correctness of the Office's position, claim 1 has been amended to include the limitations of claim 2. Thus, claim 1 is directed towards an EGFR derived peptide consisting of at least 8 consecutive amino acid residues derived from the noted amino acid sequences. Thus, the enablement and written description rejection noted above with regard to claim 1 is overcome.

In regard to claim 3, Applicants further note that such claims meet the enablement and written description requirements as the specification provides guidance for testing and synthesizing polypeptides within the full scope of claim 3. Such testing and synthesizing can be done without undue experimentation.

III. ANTICIPATION REJECTIONS

In item 6A on pages 4-5 of the Office Action, claims 1, 3, 6, 7, 13 and 14 were rejected under 35 U.S.C. § 102(b) as anticipated by Okugawa et al.

In item 6B on pages 5-6, claims 1, 3, 6, 7, 13 and 14 were rejected under 35 U.S.C. § 102(b) as anticipated by Noguchi et al.

Applicants respectfully traverse these rejections as applied to the amended claims.

In particular, it is noted that the limitations of claim 2 have been incorporated into claim 1 without acquiescence to the correctness of the Examiner's position. It is further noted that claim 2 was not subject to the above-noted rejections. Thus, it is respectfully suggested that these rejections are overcome, with regard to the amended claims. Withdrawal of these rejections is respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

Kyogo ITOH et al.

/William R.
By: **Schmidt, II/**
William R. Schmidt, II
Registration No. 58,327
Attorney for Applicants

Digitally signed by /William R. Schmidt, II/
DN: cn=/William R. Schmidt, II/, o=WLP,
ou, email=bschmidt@wenderoth.com,
c=US
Date: 2009.04.01 16:19:20 -04'00'

WRS/lc
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
April 1, 2009